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TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING
REJECTION OVER A PENDING "REFERENCE" APPLICATIONDocket Number (Optional)
0113873.120 US2

In re Application of: Meir Eini

Application No.: 09/653,267

Filed: 08/31/2000

For: PHARMACEUTICAL AND COSMETIC CARRIER OR COMPOSITION FOR TOPICAL APPLICATION

The owner*, Foamix Ltd., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number 10/169897, filed on 12/31/2002, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, "as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application," in the event that: any such patent: granted on the pending reference application: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. The undersigned is an attorney or agent of record. Reg. No. 36,268

Signature

03/30/2005

Date

Mary Rose Scozzafava

Typed or printed name

04/04/2005 HAL111 00000021 080219 09653267

(617) 526-6015

01 FC: 814 130.00 DA

Telephone Number

- Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this statement. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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APR 01 2005

Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL

For FY 2005

Applicant claims small entity status. See 37 CFR 1.27

| | |
|-------------------------|--------------|
| TOTAL AMOUNT OF PAYMENT | (\\$) 130.00 |
|-------------------------|--------------|

| Complete if Known | |
|----------------------|-----------------|
| Application Number | 09/653,267 |
| Filing Date | 08/31/2000 |
| First Named Inventor | Meir Eini |
| Examiner Name | Mina Haghigian |
| Art Unit | 1616 |
| Attorney Docket No. | 0113873.120 US2 |

METHOD OF PAYMENT (check all that apply)

Check Credit Card Money Order None Other (please identify) Wilmer Cutler Pickering Hale and Dorr LLP
 Deposit Account Deposit Account Number: 08-0219 Deposit Account Name: _____

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

- Charge fee(s) indicated below Charge fee(s) indicated below, except for the filing fee
 Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 Credit any overpayments

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

| Application Type | FILING FEES | | SEARCH FEES | | EXAMINATION FEES | | |
|------------------|-------------|-----------------------|-------------|-----------------------|------------------|-----------------------|----------------|
| | Fee (\$) | Small Entity Fee (\$) | Fee (\$) | Small Entity Fee (\$) | Fee (\$) | Small Entity Fee (\$) | Fees Paid (\$) |
| Utility | 300 | 150 | 500 | 250 | 200 | 100 | 0 |
| Design | 200 | 100 | 100 | 50 | 130 | 65 | 0 |
| Plant | 200 | 100 | 300 | 150 | 160 | 80 | 0 |
| Reissue | 300 | 150 | 500 | 250 | 600 | 300 | 0 |
| Provisional | 200 | 100 | 0 | 0 | 0 | 0 | 0 |

2. EXCESS CLAIM FEES

Fee Description

Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent

| | |
|-----------------------|----------|
| Small Entity Fee (\$) | Fee (\$) |
|-----------------------|----------|

| | |
|----|----|
| 50 | 25 |
|----|----|

Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent

| | |
|-----|-----|
| 200 | 100 |
|-----|-----|

Multiple dependent claims

| | |
|-----|-----|
| 360 | 180 |
|-----|-----|

| | | | |
|--------------|--------------|----------|---------------|
| Total Claims | Extra Claims | Fee (\$) | Fee Paid (\$) |
|--------------|--------------|----------|---------------|

Multiple Dependent Claims

| | |
|----------|---------------|
| Fee (\$) | Fee Paid (\$) |
|----------|---------------|

- 20 or HP = _____ x _____ = _____

HP = highest number of total claims paid for, if greater than 20

| | | | |
|---------------|--------------|----------|---------------|
| Indep. Claims | Extra Claims | Fee (\$) | Fee Paid (\$) |
|---------------|--------------|----------|---------------|

| | |
|----------|---------------|
| Fee (\$) | Fee Paid (\$) |
|----------|---------------|

- 3 or HP = _____ x _____ = _____

HP = highest number of independent claims paid for, if greater than 3

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

| | | | | |
|--------------|--------------|--|----------|---------------|
| Total Sheets | Extra Sheets | Number of each additional 50 or fraction thereof | Fee (\$) | Fee Paid (\$) |
|--------------|--------------|--|----------|---------------|

- 100 = _____ / 50 = 0 (round up to a whole number) x _____ = _____

4. OTHER FEE(S)

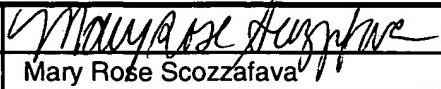
Non-English Specification, \$130 fee (no small entity discount)

Other: Terminal Disclaimer

| |
|----------------|
| Fees Paid (\$) |
|----------------|

| |
|--------|
| 130.00 |
|--------|

SUBMITTED BY

| | | | | |
|-------------------|---|--------------------------------------|--------|--------------------------|
| Signature |  | Registration No. (Attorney/Agent) | 36,268 | Telephone (617) 526-6015 |
| Name (Print/Type) | Mary Rose Scozzafava | | Date | 03/30/2005 |

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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